



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/653,308	09/02/2003	Yury Mikhailovich Rogovsky	CU-3344 RJS	2775

26530 7590 03/15/2006

LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

EXAMINER

WILSON, JOHN J

ART UNIT	PAPER NUMBER
----------	--------------

3732

DATE MAILED: 03/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/653,308

Applicant(s)

ROGOVSKY, YURY
MIKHAILOVICH

Examiner

John J. Wilson

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 29-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 29, 40 and 42, lines 13-15, “the lateral displacement of the head relative to the longitudinal axis of said dental instrument” is unclear because it is not understood what is meant by lateral displacement of the head. It may mean the axis of the head, however, the axis of the head 3, Fig. 1, relative to the axis of the instrument 4 has a lateral displacement, and therefore, cannot be “absent” as claimed. In lines 34 and 37 of these claims, “said intermediate channel” is unclear as to which intermediate channel is being referred to. In lines 39, 41 and 42 of these claims, “said channel” is indefinite because server channels have been claimed before, and therefore, it is unclear as to which channel is being referred to. In lines 41 and 42 of these claims, if “said channel” refers to the air-water that is discharged from the head, the limitation that this channel is “positioned in said body” appears to be inaccurate in view of the disclosure. In line 5 of these claims, the term “sphere” appears to be inaccurate in view of the disclosure which shown a hemi-sphere. In claim 30, line 4, see “not would not”. In claim 43, “said second light guide” lacks proper antecedent basis with the claim from which it depends.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29, 32, 33 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogovsky (RU 2030904). Rogovsky shows a longitudinal body 26, cup at 1, Fig. 1, a head 9, an instrument 27 which as shown in Figs. 1 and 2 is at a slight angle with respect to a longitudinal axis of the body, and as such, the angle between the axis of the instrument 27 and the longitudinal axis of the body will vary as the head is rotated, mounting seat at numeral 1, the shown head 9 rotates a full turn about the axis of the seat, air turbine 10, drive as shown, air channel 7 in the body, the body seat has an intermediate channel as shown in Fig. 5, the channels are located in an outer part of the head, that is the outer part of the inserted part of the head, Figs. 2 and 5, air discharge, see space in which gear 13 is located, Figs. 2 and 5, intermediate discharge channel located between the head and body as shown, air-water channel 6, and air-water discharge channel 23. It would be obvious to one of ordinary skill in the art that the feed and exhaust channels must be in contact throughout the 360 degree rotation of body 9 and must be annular in order for the tool to work as described. It is held that Rogovsky clearly shows an annular exhaust channel encircling the axis as the space shown in which the end of gear 13 is located, Figs. 2 and 5. While Rogovsky does not show complete details of how the feed channel meets along the rotating body 9, it is held that the space shown at the very top of body 9 that connects to channel 7 as shown in Fig. 5 is an annular feed channel encircling the axis. This

Art Unit: 3732

channel is also shown in Fig. 4 with pin 17 intersecting it and labeled pin in Fig. 2. In view of the above, one of ordinary skill in the art would find it obvious to include an annular feed channel in order to allow for the 360 degree rotation. The specific orientation of the axis of the inferentially claimed instrument with respect to the head and body is an obvious matter of choice in the placement of the inferentially claimed element. As to claim 32, Rogovsky shows a first light guide 5, Fig. 2, second light guide 12, Fig. 5, and outlet as shown in Fig. 2.

Claims 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogovsky (RU 2030904) in view of Rogovsky (RU 96101748). Rogovsky (904) shows a pin 17, however, does not clearly show a fixation device for the head. Rogovsky (748) shows fixation device 18, 19. It would be obvious to one of ordinary skill in the art to modify Rogovsky (904) to include a fixation device as shown by Rogovsky (748) in order to hold the head in its desired location during use. Because mechanical fixation forces are typically much stronger than the fluid force used to turn a turbine, it would be obvious to include a fixation force that is greater than the stopping force of the turbine.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rogovsky (RU 2030904) in view of Berg (5052924). Rogovsky shows the structure as described above, however, does not show a gas discharge for cleaning the light outlet. Berg teaches that it is known to clean a lens using a discharge and that dental drills have air spray that can be used to accomplish lens cleaning, column 2, lines 29-35. It would be obvious to one of ordinary skill in

Art Unit: 3732

the art to modify Rogovsky to include using a gas discharge to clean the light outlet as suggested by Berg in order to keep the light free from obstruction.

Claims 35-39 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogovsky (RU 2030904) in view of Rosenstatter (5476380). Rogovsky shows the elements as described above, however, does not show a micromotor. Rogovsky does teach that the drive may be manual or a drive. In view of this teaching, to use a motor as a drive would be an obvious matter of choice to one of ordinary skill in the art in a suggested alternative for driving a gear. Rogovsky does not show a gas feeding channel connected to the motor as claimed. Rosenstatter shows a feed channel 6', 9 that is connected to both the motor 5 and the turbine 8 in the head. It would be obvious to one of ordinary skill in the art to modify Rogovsky to include a feed channel as shown by Rosenstatter in order to operate the motor when needed. As to claim 37, the claim merely states an intended use and function without actually claiming any structure capable of performing the function, and as such, would be obvious use of the actual claimed structure. As to claim 38, Rosenstatter shows a drive that can be turned in either direction and suggests using a motor, therefore, it would be obvious to the skilled artisan to use a reversible motor to drive the head in either direction. As to claim 39, to use an electric motor is an obvious matter of choice in well known motors to one of ordinary skill in the art.

Claims 41 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogovsky (RU 2030904) as applied to claim 40 above, and further in view of Pathmanabhan et al (5634790). Rogovsky does not show using a light guide that is divided in two. Pathmanabhan

Art Unit: 3732

teaches using a light guide that is divided into two, 66, 68, Fig. 14. It would be obvious to one of ordinary skill in the art to modify Rogovsky to include a light guide as shown by Pathmanabhan in order to better deliver light to the work site.

Claim 43 rejected under 35 U.S.C. 103(a) as being unpatentable over Rogovsky (RU 2030904) in view of Rosenstatter (5476380) as applied to claim 42 above, and further in view of Pathmanabhan et al (5634790). The above combination does not show using a light guide that is divided in two. Pathmanabhan teaches using a light guide that is divided into two, 66, 68, Fig. 14. It would be obvious to one of ordinary skill in the art to modify the above combination to include a light guide as shown by Pathmanabhan in order to better deliver light to the work site.

Drawings

The drawings are objected to because text should not be used on the drawings. A reference symbol should be used and then explained in the specification.

Response to Arguments

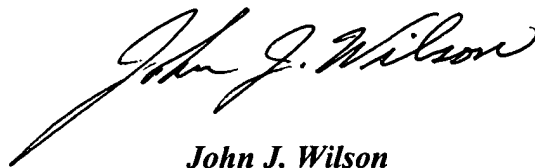
Applicant's arguments filed January 26, 2006 have been fully considered but they are not persuasive. As pointed out above, it is held that Rogovsky (RU 2030904) does show an instrument axis that is at an angle with respect to the body, that is, is not parallel, and as such, the angle with respect to the body will vary as the head is rotated. Further, in view of the rejections made under 35 U.S.C. 112, second paragraph, above, the specific claimed orientation of the head with respect to the body and/or instrument is unclear, and as such, is not given patentable weight.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Wilson whose telephone number is 571-272-4722). The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver, can be reached at 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**John J. Wilson
Primary Examiner
Art Unit 3732**

jjw
March 10, 2006